



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/165146

PRELIMINARY RECITALS

Pursuant to a petition filed April 02, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on April 23, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied child care assistance from November 30, 2014 through March 7, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Theresa Miles

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On November 17, 2014 the petitioner was hired at [REDACTED]. Prior to that the petitioner was placed at this daycare center through the W-2 program. When placed at [REDACTED] through the W-2 program the petitioner received child care assistance.
3. Effective November 29, 2014 the agency terminated the petitioner's child care assistance.
4. The petitioner's employer, [REDACTED], did not have a worker's compensation policy between until March 7, 2015.
5. The petitioner's employer, [REDACTED], did not report the petitioner's fourth quarter wages for 2014. [REDACTED] reported first quarter wages for 2015.
6. The petitioner remains employed at [REDACTED], and has child assistance effective March 7, 2015.
7. On March 30, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing. Attached to the request for fair hearing was a notice stating that the petitioner's child care assistance would continue beginning April 1, 2015.
8. The petitioner's child does not attend [REDACTED], where the petitioner works. The petitioner's child attends a different daycare.

DISCUSSION

The purpose of the Wisconsin Shares Child Care Program is to provide child care assistance for working low-income families. *Child Care Manual* § 1.1.1. The Wisconsin Shares Child Care Program is regulated under DCF 201 Administration of Child Care Funds (administrative code) and Wisconsin Statutes s. 49.155 Stats. *Child Care Manual* § 1.1.1.

In order to qualify for child care assistance, the recipient must be in an "approved activity." *Child Care Manual* § 1.5.0 (viewable online at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm> (last viewed April 2015)). The term "approved activity" is a term of art in child care assistance cases. Approved activities include employment with a qualified employer. *Id.* at § 1.5.3.1. To be a qualified employer, the employer must have a federal employer identification number, have a Worker's Compensation Insurance Policy, report wages to unemployment insurance, and comply with minimum wage laws. *Id.* at § 1.5.3.1.

In this case the agency has shown that the petitioner's employer, [REDACTED], did not have a worker's compensation insurance policy from November 30, 2014 and March 7, 2015. The employer also did not report fourth quarter wages for 2014. The petitioner credibly testified that her employer informed her that she had a worker's compensation insurance policy. Essentially the petitioner's employer strung her along. The petitioner believed that this issue would be resolved and that her child care would be covered. Unfortunately it appears that the petitioner's employer was less than honest with the petitioner. The agency stated that if the employer obtains a worker's compensation insurance policy for November 2014 through March 2015 and reports fourth quarter wages for 2014, the agency would allow child care benefits for the petitioner during this gap. This has not yet happened. Thus, the agency correctly did not allow payment for the petitioner's child care from November 30, 2014 through March 7, 2015. During this time the petitioner's employment at [REDACTED] was not considered an approved activity because of the employer's lack of a valid worker's compensation insurance policy and the failure of the employer to report fourth quarter wages.

I note that the petitioner did everything correctly, but due to her employer's actions, she was ineligible for child care assistance from November 30, 2014 through March 7, 2015. The agency has also worked with the petitioner and her employer in an attempt to get the petitioner child care assistance during this gap of time. I urge these parties to continue to work together in the hopes that the petitioner's employer will take the necessary steps to become an approved activity from November 30, 2014 through March 7, 2015.

CONCLUSIONS OF LAW

The agency correctly denied child care assistance from November 30, 2014 through March 7, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

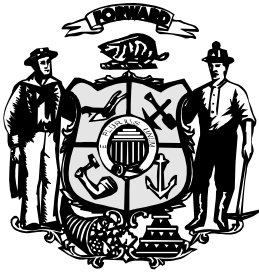
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of April, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 30, 2015.

Milwaukee Early Care Administration - MECA
Child Care Benefits